

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

DAVID MANSFIELD,

Plaintiff,

vs.

No. CV 18-01013 MV/LF

FNU HORTON and
FNU AMPEHO,

Defendants.

MEMORANDUM OPINION AND ORDER OF DISMISSAL

THIS MATTER is before the Court under Rule 41(b) of the Federal Rules of Civil Procedure on the Civil Rights Complaint Pursuant to 42 U.S.C. § 1983 filed by Plaintiff David Mansfield (Doc. 1). The Court will dismiss the Complaint without prejudice for failure to comply with Court orders, failure to comply with statutes, and failure to prosecute.

Plaintiff David Mansfield is an incarcerated prisoner. He filed a Civil Rights Complaint on November 1, 2018. (Doc. 1). Mansfield did not pay the filing fee or submit an application to proceed without prepayment of fees or costs under 28 U.S.C. Section 1915. On November 5, 2018, the Court ordered him to cure the deficiency by either paying the filing fee or submitting an application to proceed under Section 1915 within 30 days of entry of the Order. (Doc. 2). In its Order, the Court advised Mansfield that failure to cure the deficiency in his application to proceed could result in dismissal of the case without further notice. (Doc. 2). The Court also provided Mansfield with a form application to proceed *in forma pauperis* under Section 1915. (Doc. 2). Plaintiff Mansfield did not pay the filing fee, submit an application to proceed under Section 1915, or otherwise responded to the Court's November 5, 2018 Order.

On December 14, 2018, the Court entered an Order to Show Cause, directing Plaintiff Mansfield to show cause within 30 days why this case should not be dismissed for failure to comply with the Court's November 5, 2018 Order. (Doc. 4). The Order to Show Cause notified Mansfield that, if he failed to show cause within 30 days, the case could be dismissed without prejudice under Rule 41(b) without further notice. (Doc. 4). More than 30 days has elapsed since entry of the December 14, 2018 Order, and Plaintiff Mansfield has not shown cause or otherwise responded in any way to the Court's Order.

Under 28 U.S.C. Sections 1914 and 1915, the Court is required to collect the filing fee or grant a prisoner leave to proceed *in forma pauperis*. Section 1914 states:

“The clerk of each district court shall require the parties instituting any civil action, suit or proceeding in such court, whether by original process, removal, or otherwise, to pay a filing fee . . .”

28 U.S.C. § 1914(a). Section 1915 provides:

“[A]ny court of the United States may authorize the commencement, prosecution or defense of any suit, action, or proceeding, civil or criminal, or appeal therein, without prepayment of fees or security therefor, by a person who submits an affidavit that includes a statement of all assets such prisoner possesses that the person is unable to pay such fees or give security therefor . . .”

28 U.S.C. § 1915(a).

“Notwithstanding subsection (a), if a prisoner brings a civil action or files an appeal *in forma pauperis*, the prisoner shall be required to pay the full amount of a filing fee . . .”

28 U.S.C. § 1915(b)(1).

Plaintiff Mansfield was ordered to pay the filing fee or submit the required application to proceed under Section 1915, but failed to comply with the Court's Order. When Mansfield failed to pay the fee or submit the application, he was ordered to show cause why the case should not be

dismissed, but similarly failed to comply with the show cause order.

Pro se litigants are required to follow the federal statutes, rules of procedure, and simple, nonburdensome local rules and to comply with Court orders. *See Bradenburg v. Beaman*, 632 F.2d 120, 122 (10th Cir. 1980). The Court may dismiss an action under Fed. R. Civ. P. 41(b) for failure to prosecute, to comply with the rules of civil procedure, or to comply with court orders. *See Olsen v. Mapes*, 333 F.3d 1199, 1204, n.3 (10th Cir. 2003). Therefore, the Court will dismiss this civil proceeding pursuant to Rule 41(b) for failure to comply with the Court's Orders, failure to comply with 28 U.S.C. Sections 1914 and 1915, and failure to prosecute this proceeding.

IT IS THEREFORE ORDERED that the Civil Rights Complaint Pursuant to 42 U.S.C. § 1983 filed by Plaintiff David Mansfield (Doc. 1) is **DISMISSED** without prejudice under Rule 41(b) of the Federal Rules of Civil Procedure for failure to comply with Court orders, failure to comply with 28 U.S.C. Sections 1914 and 1915, and failure to prosecute.



UNITED STATES DISTRICT JUDGE